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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/761,569	01/21/2004	John H. King	BU129/0BU34	3439
24350	7590	10/11/2006	EXAMINER	
STITES & HARBISON, PLLC 400 W MARKET ST SUITE 1800 LOUISVILLE, KY 40202-3352			ALI, SHUMAYA B	
			ART UNIT	PAPER NUMBER
			3771	

DATE MAILED: 10/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/761,569

Applicant(s)

KING, JOHN H.

Examiner

Shumaya B. Ali

Art Unit

3743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 July 2006.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☐ Claim(s) 1,6-8,10,12-14 is/are rejected.
7) ☒ Claim(s) 2-5,9 and 11 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 9/29/06
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

In response to the office action mailed on 5/3/06 the Applicant has amended claims 1,8, and 14. Currently claims 1-14 are pending in the application.

Response to Arguments

Applicant's arguments with respect to claims-14 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Steinke US Patent No. 3,080,586.

As to claim 1, Steinke disclose a flexible respirator hood designed to fit over and around the head of a wearer, and including a substantially transparent lens (fig.1, 11) received in a front opening of the hood, the improvement comprising an inflatable neck cuff positioned near a lower portion of the hood (fig.1, 8) and substantially circumscribing an opening through (fig.2, 3) which the wearer inserts his head, said

inflatable neck cuff being supplied by an air source (col.4 lines 20-30), and said inflatable neck cuff having no outlet into the interior of the hood such that, once inflated, it fits under the chin of the wearer and exerts a sealing pressure against the neck of the wearer, thus preventing the hood from rising up relative to the head of the wearer due to upward forces resulting from introduction of air into the hood (see fig.2, col. 2 lines 26-28, 54-57) .

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8,10, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Steinke US Patent No. 3,080,586 in view of Jacobson US Patent No.4, 411,264

As to claim 8, Steinke teaches claimed invention as applied to claim 1 with the exception of one or more overhead channels, which define an air delivery path from the air source over the head of the wearer to the interior of the lens and downwardly across the face of the wearer. Jacobson in supplied air respirator teaches overhead channels (fig.2, 10) for supplying air to the wearer (see col.2 lines 61 and 62). Therefore, it would have been obvious to one of ordinary skills in the art at the time the invention was

made to modify the device of Steinke in view of Jacobson in order to provide overhead channels because doing so would have supplied air to the wearer.

As to claim 10, Steinke in view of Jacobson does not teach multiple overhead channels. However, Applicant has not established why multiple channels are critical to the invention. Therefore, to one of ordinary skills in the art it would have been obvious to duplicate channels of Steinke/Jacobson as a matter of design choice.

As to claim 14, Steinke teaches claimed invention as applied to claim 2.

Claims 6,7, 12, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Steinke US Patent No. 3,080,586 in view of Jacobson US Patent No.4, 411,264 and further in view of Grizard French Patent No. 2,614,538.

As to claims 6 and 7, combination of Steinke and Jacobson discloses claimed invention with the exception of an integral exhalation valve in an exterior surface of said hood, said valve opening when air pressure within the hood exceeds a predetermined value and wherein said exhalation valve includes an opening through the exterior surface of said hood and a covering that extends over the opening, said covering being bonded to the hood, but overcoming the bond and pulling away from the hood to open said exhalation valve should the air pressure within the hood exceed the predetermined value. However, Grizard, which also relates to a respirator hood, discloses a pull-way exhalation valve (figs.5-6, valve 17). Therefore, it would have been obvious to one of ordinary skills in the art based upon the teachings of Grizard to

modify the hood of Steinke to utilize a pull-way exhalation valve for the purposes of providing a more compact and efficient device.

As to claims 12 and 13, Steinke teaches claimed invention as applied to claim 6.

Allowable Subject Matter

Claims 2-5, 9, and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

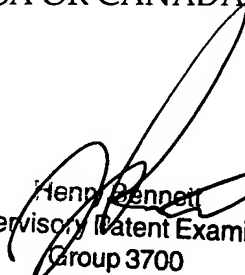
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date


of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shumaya B. Ali whose telephone number is 571-272-6088. The examiner can normally be reached on M-F 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Bennett can be reached on 571-272-4791. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Henry Bennett
Supervisory Patent Examiner
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Shumaya B. Ali
Examiner
Art Unit 3743

10/1/06